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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,566	07/07/2003	Jack Edward Estes	P-B090-CIP	7494

7590 08/23/2004

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EXAMINER

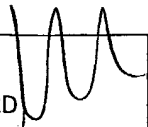
NGUYEN, NINH H

ART UNIT	PAPER NUMBER
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3745

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/614,566	<b>Applicant(s)</b> ESTES, JACK EDWARD 	
	<b>Examiner</b> Ninh H. Nguyen	<b>Art Unit</b> 3745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Specification*

1. The abstract of the disclosure is objected to because it contains more than 150 words.

Correction is required. See MPEP § 608.01(b).

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 4-6, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Pratt (5,570,997).

Pratt discloses an apparatus for harvesting power from a moving fluid (Figs. 1-5), comprising a central shaft 20; a structure rotatable about the central shaft 62; at least one pair of panels 12, 16 hingedly attached to the structure, wherein the panels open up when facing against the direction of movement of the fluid and fold substantially closed when facing sideways to or away from the direction of movement (Fig. 1);

wherein the apparatus further comprising at least one stop 52 for preventing the at least one pair of panels from folding back when facing the direction of movement of the fluid; and a secondary brace 60 for preventing the pair of panels from completely closing when facing away from or sideways to the direction of movement;

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wherein the at least one pair of panels comprises a first two pairs of panels 12, 16 aligned with each other on opposite sides of the shaft and a second two pairs of panels 14, 18 at right angles to the first two pairs of panels, aligned with each other on opposite sides of the shaft, wherein the first two pairs of panels face in opposite directions from each other and the second two pairs of panels face in opposite directions from each other; and

wherein when a pair of panels is in the open position, the panels of that pair form a concave surface facing the direction of movement of the fluid (Fig. 1).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pratt in view of Cummings (5,525,037).

Pratt discloses all the limitations except an electrical generator, and a system for turning the electrical generator from the rotation of the shaft or structure around the shaft at a rotational speed much greater than the rotational speed of the shaft or the structure around the shaft as claimed.

Cummings teaches a wind turbine (Fig. 1) comprising a vertical shaft 24, a plurality of vanes 38 for causing the shaft to rotate in the wind, a generator 50 connected to the shaft 24 via

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chain 52 and gear sprockets 25, 54 and reduction apparatus 56 to turn the generator at the appropriate speed to generate electricity.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made, to make the apparatus of Pratt with a generator connected to the central shaft via chain and sprockets to turn the generator at the speed greater than the speed of the shaft as an expedience to turn the shaft of the generator at the appropriate speed to generate electricity as commonly done in the art.

### ***Prior Art***

The prior art made of record but not relied upon is considered pertinent to applicant's disclosure and consists of 2 patents.

Stutzman (4,377,372) and Huber (1,296,082) are cited to show wind turbines having folding vanes.

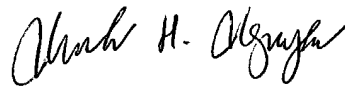
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Ninh Nguyen whose telephone number is (703) 305-0061. The examiner can be normally reached on Monday-Friday from 7:30 A.M. to 5:00 P.M.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look, can be reached at (703) 308-1044. The fax number for this group is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.



**NINH H. NGUYEN**  
**PRIMARY EXAMINER**

Nhn  
August 23, 2004